

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 RONALD WINDORF,

5 Plaintiff,

6 v.

7 CORRECTIONAL LIEUTENANT N.  
8 KELSO, et al.,

9 Defendants.  
10

Case No. 2:14-cv-01821-APG-PAL

**ORDER DENYING DEFENDANT DEREK  
LOWERY'S MOTION TO DISMISS**

(Dkt. #15)

11 Plaintiff Ronald Windorf alleges he was injured while working as an inmate in the Clark  
12 County Detention Center. He has sued two entities and three individuals, including corrections  
13 officer Derek Lowery "in his official capacity" who he alleges "was acting under the authority or  
14 color of state law at the time" of the incidents giving rise to his claims. (Dkt. #9 at 2:6-8.)  
15 Lowery filed a motion to dismiss the claims against him because a lawsuit "against a  
16 governmental official in his official capacity is equivalent to a suit against the governmental  
17 entity itself." (Dkt. #15 at 4, quoting *Larez v. Los Angeles*, 946 F.2d 630, 645 (9<sup>th</sup> Cir. 1991)).  
18 Lowery further states that when "both the public entity and a municipal officer are named in a  
19 lawsuit, a court may dismiss the individual named in his official capacity as a redundant  
20 defendant." (*Id.*, citing *Center for Bio-Ethical Reform, Inc. v. Los Angeles County Sheriff's*  
21 *Department*, 533 F.3d 780, 799 (9<sup>th</sup> Cir. 2008)).

22 However, Windorf has not sued a public entity. Although Lowery contends that Windorf  
23 has sued CCDC (*Id.* at 2:13-15), CCDC is listed only in the caption but not named in any of the  
24 jurisdictional paragraphs (Dkt. #9 ¶¶ 1-7) or any of the causes of action (*Id.* at 4-5). Further,  
25 CCDC is a building and not a legal entity, so it is not a proper defendant. Nevada law appears to  
26 delegate authority for the operation of CCDC to the Las Vegas Metropolitan Police Department  
27 ("LVMPD"). *See Nev. Rev. Stat. §§ 280.280, 280.284.* But LVMPD is not named as a defendant  
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1 in this suit. Because Windorf has not sued any public entity, Lowery is not a redundant  
2 defendant.

3 IT IS THEREFORE ORDERED that defendant Lowery's motion to dismiss (**Dkt. #15**) is  
4 **DENIED.**

5 DATED this 2<sup>nd</sup> day of February, 2016.

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8 ANDREW P. GORDON  
9 UNITED STATES DISTRICT JUDGE  
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